

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMIL C. EDWARDS,	§
	§ No. 140, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0402010188
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 3, 2009

Decided: June 30, 2009

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

ORDER

This 30th day of June 2009, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Jamil C. Edwards, filed an appeal from the Superior Court's February 24, 2009 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior

Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) In March 2006, Edwards was found guilty by a Superior Court jury of Murder in the First Degree and Possession of a Firearm During the Commission of a Felony. Edwards' convictions were reversed on direct appeal.² Subsequently, Edwards accepted the State's plea offer and entered a plea of guilty to Manslaughter and Possession of a Firearm During the Commission of a Felony. On the manslaughter conviction, he was sentenced to 20 years of Level V incarceration, to be suspended after 18 years for decreasing levels of supervision. On the weapon conviction, he was sentenced to 3 years of mandatory incarceration at Level V. Edwards' subsequent motion for reduction of sentence was denied by the Superior Court. On appeal, this Court affirmed the Superior Court's judgment.³

(3) In his current appeal from the Superior Court's denial of his postconviction motion, Edwards claims that the Superior Court abused its discretion by denying his motion for postconviction relief, which was grounded in a claim of ineffective assistance of counsel. Specifically, Edwards contends that his counsel improperly failed to move to suppress the

¹ Supr. Ct. R. 25(a).

² *Edwards v. State*, 925 A.2d 1281 (Del. 2007).

³ *Edwards v. State*, Del. Supr., No. 118, 2008 (Sept. 23, 2008).

trial testimony of Michael Mude, one of Edwards' cellmates who claimed that Edwards had confessed the murder to him, on the ground that Mude was not credible. Edwards further contends that, if Mude's testimony had been excluded, he would not have pleaded guilty, but would have gone to trial. To the extent that Edwards has failed to raise claims that were raised previously, those claims are deemed to be waived and will not be considered by this Court.⁴

(4) In order to prevail on a claim of ineffective assistance of counsel in connection with a guilty plea, a defendant must demonstrate a reasonable probability that, but for his counsel's unprofessional errors, he would not have pleaded guilty, but would have insisted on proceeding to trial.⁵ A defendant must make concrete allegations of actual prejudice, and substantiate them, or risk summary dismissal.⁶

(5) Edwards has failed to sustain his burden of demonstrating ineffective assistance. Issues of credibility are within the province of the fact finder and do not provide grounds for exclusion of a witness'

⁴ *Murphy v. State*, In his motion for postconviction relief filed in the Superior Court, Edwards also claimed that his counsel improperly failed to give him the opportunity to review and comment on the presentence report, which, according to Edwards, falsely reported that he had snatched purses and sold drugs at age ten.

⁵ *Albury v. State*, 551 A.2d 53, 60 (Del. 1988).

⁶ *Younger v. State*, 580 A.2d 552, 556 (Del. 1990).

testimony.⁷ As such, Edwards cannot demonstrate that his counsel's failure to move to suppress Mude's testimony resulted in prejudice to him. In the absence of any evidence of ineffective assistance, Edwards' claim must fail.

(6) It is manifest on the face of the opening brief that this appeal is without merit, because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁷ *Chao v. State*, 604 A.2d 1351, 1363 (Del. 1992).